BDAC GOVERNANCE WORK GROUP
Meeting Summary
March 9, 1999

The BDAC Governance (formerly Assurances) Work Group held its 20th meeting on March 9, 1999, from 1:00 p.m. until 4:00 p.m. in Room 1131 of the Resources Building.

BDAC Members present:

> Hap Dunning
> Roberta Borgonova
> Alex Hildebrand
> Stu Pyle
> Bob Raab
> Byron Buck

CALFED Staff/Consultants:

> Kate Hansel
> Dennis O'Bryant
> Eugenia Laychak
> Mike Heaton

Others present:

> **See attached sign-up sheet**

Updates/Announcements

1. Chairman Hap Dunning convened the meeting and participants introduced themselves. The meeting summary of January 12 was reviewed.

2. Hap reported on the CALFED staff recommendations presented at the January meeting of the Bay Delta Advisory Council. The Assurances Work Group has been renamed the Governance Work Group. EZE Burts was appointed as the co-chair of the Governance Work Group; Byron Buck, Roberta Borgonova and Bob Raab have been added as BDAC members of the Work Group.

3.   Dennis O'Connor reported that Assemblyman Machado has introduced AB 909, which would create the Bay Delta Commission for the purpose of carrying out the environmental restoration of the Bay-Delta. The bill currently includes only general intent language, without much detail on the powers and duties of the proposed commission.

4.   Hap introduced Joe Bodovitz from the California Environmental Trust, to report on the proposed expert panel. The California Environmental Trust has been looking for grant money to fund a symposium or workshop on institutional and governance issues focused on ecosystem governance. The intent is to generate viewpoints and information which might not otherwise be available and which could be useful to the Work Group, BDAC and the CALFED Policy Group.

5.   Kate Hansel described the handouts in the meeting packet. Kate reviewed the work products from the past two years and attempted to synthesize these into a short list of functions and options for both the oversight level and the Ecosystem Restoration Program (ERP) implementation level. Kate has met with a small working group to help frame the issues and recommendations for discussion at the Governance Work Group.

7.   In response to a question from Byron Buck, the group discussed the Machado bill. There was general agreement among meeting participants that CALFED should let the legislature know of CALFED's schedule for developing recommendations on governance. Also, the sense of the group was that, given the anticipated schedule for the Final EIR/EIS and the Record of Decision, it may not be necessary to have legislation on governance in 1999 and this legislation could be managed as a two year bill with enactment deferred until 2000.

8.   There was a discussion of the schedule for the Work Group. It was generally agreed that the Work Group should attempt to develop a recommendation on governance options for program oversight and ERP implementation for submittal to BDAC in July, so that BDAC and the Policy Group would have time to consider governance recommendations in connection with interim session legislative committee hearings later this year.

Overall CALFED Governance

Kate reviewed the oversight structure functions (Attachment 1 in the meeting packet). Staff provided a brief summary of the three oversight models or options.

Given the time constraints, there was no discussion of these. There was discussion about the need to further clarify and distinguish oversight functions from implementation functions. There was some general agreement that oversight includes such functions as ensuring "balance" among program elements; ensuring continuous improvement towards program goals and objectives; coordination with non-CALFED programs; legislative and stakeholder communications; and conflict resolution.

Comments included:

- Alex Hildebrand raised questions about whether the oversight process would provide a way to look at the system wide impacts of one or more specific projects or programs. Who will consider how a specific project in one program element, or a set of projects taken together, will interact or impact the system in terms of achieving broader program goals and objectives? Who will perform the analysis to determine how a specific project fits into the system as a whole? There was general agreement that this would occur at both the implementation and oversight levels.

- There was some discussion about the need for coordination at the implementation level as well as at the oversight level. It will be necessary for implementing agencies to ensure that specific projects are coordinated with projects from other elements. Some meeting participants expressed the view that these coordination issues would only go to the oversight level in the event of a conflict between projects.

- There was a comment that stakeholders would need to be involved at the implementation level as well as at the oversight level, and a question about how this will be provided.

- There was a lengthy discussion and debate on the need for an oversight entity. Some participants question whether there is really a need for an oversight entity and if so, whether the entity should take the form of the CALFED Policy Group or something else. There is a concern that an oversight entity will become another layer of bureaucracy and management; that it will inevitably impair the ability of implementing agencies to carry out their projects and programs by taking over their responsibilities. Others believe that it is essential that there be a forum for these oversight functions, including coordinating programs and resolving conflicts among agencies.

- The questions focused on (1) How much management (or oversight) will the CALFED Bay Delta Program require in its implementation phase. Is there a need for a centralized management or oversight structure, or can the oversight functions be performed on a periodic, as needed basis, by an informal arrangement among the implementing agencies, with some appropriate level of stakeholder advice and input? (2) If there is an oversight entity, how much "muscule" should it have in terms of its authority to manage the program, set priorities, establish budgets and make decisions affecting program goals and objectives?

ERP Governance

1. Kate reviewed the ERP governance functions (Attachment 2 in the meeting packet). Some of the comments and questions on functions are summarized below:

    - The ERP manager needs to be able to perform technical analysis on a proposed project to see how it will fit into the system as a whole and how it will relate to other CALFED and non-CALFED projects and programs.
    - The ERP management entity should be structured to continue the state-federal partnership.
    - The ERP manager should not be able to change program goals and objectives for the ERP; these are fixed by the Strategic Plan. The manager should be able to adaptively manage ERP actions as necessary to achieve goals and objectives.
    - There is some question whether the data collection and monitoring program for the ERP should be administered by the ERP manager or whether it should be done by an outside party, independent of the ERP manager.

2. Kate presented a summary of the ERP governance options (Attachment 3). There was a brief discussion of the features, advantages and disadvantages of each option. It was noted that several of the options would require federal legislation in two areas: authorization for federal agency employees to participate in non-federal entities; and authorization/appropriation of federal funds.

    It was suggested that with respect to ERP governance, we may need an interim structure to manage the program for a few years until there is agreement and legislation for the long term.

There was *preliminary* consensus among meeting participants that a new joint federal - state entity was the preferred approach to ERP management and governance, the legislative and political hurdles notwithstanding. There is also some interest in pursuing the idea of a federally chartered trust (based on the Presidio Trust model.)

3. Kate then outlined the staff "straw" proposal for ERP governance (Attachment 4). She described the concept as the creation of a state entity (a conservancy) with federal agency participation by means of a MOU or MOA. Such an arrangement would be intended as an interim device for governance of the ERP until such time as federal legislation could be developed to authorize more direct federal agency participation.

Stakeholders expressed opposition to CALFED promoting legislation or a specific option at this time. Concern was expressed that even though CALFED staff may view the "straw" proposal as an interim measure, an agency once created would take on a life of its own and it would be difficult to change it into something different in the future.

The general view of the work group meeting participants was that unless it was essential to develop a legislative proposal immediately, it would be prudent to wait a few months until the Work Group and BDAC have had the opportunity to develop recommendations for the Policy Group. The group agreed that it should strive to provide its recommendation at the BDAC July 8-9, 1999 meeting. Kate indicated that she would convey the group's message to the Policy Group at its next meeting. Representatives of stakeholder groups will also have the opportunity to address the Policy Group directly on this issue.

Next Meeting

The next Governance Work Group meeting was scheduled for April 22, 1999. The meeting was adjourned at 4:00 PM.